CHAPTER XII. IMPLICATIONS OF EXPANDING THE BASIC PILOT SYSTEM

A. OVERVIEW

1. BACKGROUND

As explained in Chapter I, the Commission on Immigration Reform, in its interim report to Congress in September 1994, recommended testing alternative approaches to employment verification on a pilot basis, with the goal of full implementation of a national registry system built on SSA and INS data. The idea for a national registry or electronic employment verification system was included in major legislation proposed as a precursor to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Legislation sponsored by the Chair of the Senate Subcommittee on Immigration required that the Attorney General and the Secretary of Health and Human Services[146] conduct projects in five States, demonstrating the feasibility of systems to verify eligibility for public assistance benefits and work authorization in the United States. The legislation further required that, within 8 years, the Administration develop a permanent national system. The Chair of the House Subcommittee on Immigration and Claims introduced similar legislation that allowed for the testing of pilot programs but required that the Attorney General establish a permanent national employment eligibility verification mechanism no later than October 1, 1999.

The Clinton Administration strongly opposed both of these bills on the basis that alternative employment systems should be tested on a pilot basis for technical feasibility and their impact on employees and employers, and that they should be fully evaluated before consideration of any fuller implementation. That Administration's own bill called for testing of pilots for 3 years, followed by evaluation on the basis of discrimination, privacy, technical feasibility, cost-effectiveness, impact on employers, and susceptibility to fraud. Only after full testing and evaluation would a recommendation be made to Congress to implement a pilot program that met the necessary standards, if such a pilot existed.

The final employment verification system included in IRIIRA was based on the model of testing alternative pilot programs, followed by evaluation and recommendations to Congress. Although movement to a national verification system was intentionally not included in IRIIRA, the legislative history was clear that the evaluation include recommendations regarding the elimination, modification, or expansion of the pilot programs.

Chapter XII builds on the preceding chapters by addressing the issue of whether the Basic Pilot program should be eliminated, modified, or expanded and, if modified or expanded,

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[146] The Secretary was at that time responsible for SSA.

in what ways. The chapter examines several possible expanded versions of the Basic Pilot program that have been raised during the course of the evaluation. These possibilities were selected as representative of the range of potential modifications and do not constitute all possible alternatives:

- A *mandatory national* program for *all* employers

- A *mandatory national* program for *large* employers *only*

- A *voluntary national* program open to *all* employers

- A *voluntary enhanced* program open to employers in *selected* States

2. DESCRIPTIONS OF ALTERNATIVE PROGRAMS EXAMINED

a. A MANDATORY NATIONAL PROGRAM FOR ALL EMPLOYERS

As envisioned here, a "mandatory national program for all employers" would operate in the same fashion as the current Basic Pilot Integrated system, except that it would be required for all employers in the Nation. Of course, if a mandatory national program were implemented, it would likely differ in significant ways from the current program. For example, some special accommodation would probably be needed for small employers who infrequently hire new employees. One possibility would be to have "clearinghouses" that could handle the verification process for small employers. Other possible modifications to improve the current system are discussed throughout the remainder of this report.

b. A MANDATORY NATIONAL PROGRAM FOR LARGE EMPLOYERS ONLY

The Basic Pilot program is not equally cost-effective for all employers. Employers who rarely have new employees would benefit very little from the program. However, large and small employers reported similar total costs for setting up and maintaining the Basic Pilot system. Thus, the employer's cost per employee screened is much higher for small employers than for large employers. When employers were asked who would benefit most from the pilot, the most frequent response was "companies that employ a large number of immigrants" (selected by 47 percent in the on-site survey). The second and third most common answers were "companies that employ a large number of unskilled laborers" and "large companies" (43 percent and 42 percent, respectively).

Many government laws and regulations are currently restricted to employers above a minimum size. For example, Title VII of the Civil Rights Act of 1964 – which prohibits discrimination on the basis of race, color, religion, gender, and national origin – applies only to employers with 15 or more employees. It is, therefore, reasonable to consider the possibility of enacting an automated employment verification program that is mandatory only for large employers.

The U.S. Census Bureau estimates that there were 6.3 million establishments in the United States with one or more employees in 1998 (Exhibit XII-1). These establishments

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employed 108 million employees. Forty-one percent of the establishments and 89 percent of the employees were in firms that had 10 or more employees. Thus, restricting the mandatory program to firms with 10 or more employees would provide relief for a substantial number of small employers, while still covering a very large number of the Nation's employees. In essence, one would "excuse" nearly 60 percent of employers from the regulation while only "losing" 11 percent of the employee base. Thus, concerted efforts could be made to solicit and encourage cooperation and compliance from the remaining employers.

If automated employment verification was restricted to firms with 50 or more employees, 23 percent of establishments and 71 percent of employees would be included. Firms with 1,000 or more employees would cover 13 percent of establishments and 44 percent of employees. Other program characteristics are assumed to be the same as those of the Basic Pilot Integrated system.

Exhibit XII-1: U.S. Business Establishments in 1998

	Business Establishments		Employees	
Size of Firm	Total No. of U.S. Establishments (in thousands)	Percentage of U.S. Employers	Total No. of U.S. Employees (in thousands)	Percentage of U.S. Employees
1+ employees	6,300	100	108,000	100
10+ employees	2,583	41	96,120	89
50+ employees	1,449	23	76,680	71
1,000+ employees	819	13	47,520	44

SOURCE: U.S. Census Bureau

c.   A VOLUNTARY NATIONAL PROGRAM OPEN TO ALL EMPLOYERS

For the purpose of the current discussion, the evaluation team examined a program that would be essentially the same as the current Basic Pilot Integrated system except that it would be available on a voluntary basis for all employers. For estimation purposes, it is assumed that the program would attract twice the number of employers as were enrolled in the Basic Pilot program at the time the pilot was evaluated.[147]

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[147] Using an estimate that is proportional to the ratio of national to original State establishments, the inflation factor would have been 2.8 (since 35 percent of establishments are in the original States). However, this calculation would likely overestimate the number of establishments that would join a nationwide voluntary Basic Pilot program, since some establishments outside the original States are already enrolled and since the Basic Pilot States were selected because they had an above-average concentration of immigrants. Given these factors, an inflation factor of 2.0 is believed to be more reasonable.

d.   A VOLUNTARY ENHANCED PROGRAM OPEN TO EMPLOYERS IN SELECTED STATES

INS is currently developing a Web-based employment verification capability that could be used as the basis for a new or improved pilot program. Such a program has several potential advantages over the current Basic Pilot Integrated system that relies on PCs and modems:

- INS would not need to mail software and manuals to employers.

- Employers would avoid some of the start-up costs and problems they have experienced in the Basic Pilot program. For example, many employers had problems with the modem they were using to access the database.

- System enhancements and updates could be provided transparently, with no effort by the employer.

- The Web could be used to convey information to employers in a cost-effective fashion, thus reducing the Federal costs for technical assistance.

- Employer training could be facilitated through the use of the Web.

Several other system enhancements are likely to result in further cost savings. For example, some of the database checking currently performed by INS Immigration Status Verifiers could be further automated. Since the exact parameters of an enhanced program are not known, the cost estimates are based on a number of untested, but reasonable, assumptions that may not prove to be correct.

B.   EFFECTS OF EXPANDING THE BASIC PILOT ON UNDOCUMENTED MIGRATION AND EMPLOYMENT

As discussed in Chapter XI, the Basic Pilot program appeared to reduce the employment of non-work-authorized immigrants at the pilot establishments. However, as long as non-participating establishments far outnumber those that are participating in the Basic Pilot program, one can expect little or no effect on the overall level of employment of undocumented workers. Since employment is one of the primary reasons for illegal immigration, a small-scale pilot study cannot be expected to affect the national level of illegal immigration.

Immigration experts agree that many undocumented immigrants are attracted to this country by work opportunities that are often far better than what is available in their own countries.[148] The success of automated employment verification in deterring undocumented immigration is thus closely linked to its success in reducing the employment of non-work-authorized individuals. Although it is not clear how much effect an expanded Basic Pilot program would have on undocumented employment and illegal immigration, any impacts would likely vary depending on the scope of the

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[148] Espenshade, 1990.

program. Certainly, a mandatory national program is most likely to have a significant impact on the employment of undocumented immigrants and, therefore, most likely to decrease illegal immigration. The more employer exemptions from the program, the easier it will be for undocumented immigrants to obtain jobs with non-pilot employers.

Even a mandatory national program for all employers would not completely prevent undocumented immigrants from working. As noted in Chapter XI, the Basic Pilot program was not designed to prevent identity fraud and therefore does not have a significant effect on its reduction. In addition, there are other work alternatives available to undocumented immigrants, including setting up their own businesses or obtaining work in the underground economy.

A mandatory automated employment verification program for large employers would substantially limit the ability of non-work-authorized individuals to find employment. Although excluded employees would still be verified through the Form I-9 process, the relative ease of getting through that process would make working for non-participating employers attractive to employees without work authorization.

Given that broad participation in a voluntary program is unlikely, a voluntary national program could have only a minor impact on undocumented immigration or the employment of non-work-authorized individuals. However, like the current Basic Pilot program, such a program would presumably reduce the number of non-work-authorized individuals who are working at participating establishments.

Even if all undocumented immigrants could be prevented from working, some illegal immigration would continue. For example, some persons immigrate to be near family members who *are* work-authorized, either because they are not able to immigrate legally or because an immigrant visa for which they may be eligible will not be available for many years.[149] Findings from the Mexican Migration Database indicate that "having a current or former U.S. migrant in one's household doubles the probability of undocumented migration."[150] Further, Reyes, who used this same database, claims that "some women do not work in the United States (44 percent) and may move as 'tied' movers, following their husbands."[151]

If the Basic Pilot program, as currently implemented, included a large number of employers in a given labor market, the percentage of counterfeit documents with valid information (i.e., identity fraud) would probably increase, thus decreasing the overall effectiveness of the program in deterring unauthorized employment. However, it is likely that the higher quality documents would be more expensive because of the extra work necessary to ensure that the information presented is accurate, although not valid for the

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[149] For some high-immigration countries, waits for some family visas now exceed 20 years.

[150] Available on the Mexican Migration Project Website at
http://www.pop.upenn.edu/mexmig/facts&figs/frames_facts.html.

[151] Reyes, 1997.

document carrier. The price difference could be substantial. According to a recent article in the *Charlotte Observer*, immigrants can now buy the use of the name and identity numbers of a real person for $1,000 and up, compared to $120 to $150 for a set of counterfeit documents that are completely falsified.[152] If these prices become common, the increased cost would presumably reduce the total demand for the counterfeit documents.[153]

A program that increased the detection of identity fraud, as well as counterfeit fraud, would be more effective than the Basic Pilot program in decreasing unauthorized employment. One way of decreasing identity fraud is to increase the security features of the documents used to identify workers. These enhancements include making identity documents difficult to counterfeit, for example, by incorporating holograms, fingerprints, or other biometric information. These possibilities are addressed in the other two IIRIRA pilot programs being evaluated.

Another method that stakeholders have suggested for detecting identity fraud is to search the SSA database for cases in which Social Security numbers are being used multiple times. Although this seems like a straightforward approach, major problems include differentiating between multiple uses of an identity by different individuals and situations in which people hold multiple jobs or change jobs frequently. Although this approach has some potential for rooting out abuse, its cost-effectiveness is not clear.

C. FINANCIAL COSTS OF ALTERNATIVE EXPANDED PROGRAMS

Exhibit XII-2 summarizes the estimated annual operating costs for each of the four proposed programs. In examining the cost estimates, the following factors should be considered:

- The cost estimates developed for these alternative systems are based on the current costs for the Basic Pilot. Thus, the current and projected figures are both based on a combination of data and best-guess estimates. These costs would undoubtedly change as the projected numbers of participating employers changed. Small changes in cost elements could produce large differences in total costs if the verification program underwent a significant expansion.

- Financial records for the Basic Pilot program do not contain all of the detailed information needed to precisely estimate all program costs.[154] Further, small changes in estimates of current costs can significantly affect estimates that are proportional to program size, particularly if the proposed program is much larger

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[152] Funk, 2002.

[153] This situation is analogous to efforts to control illegal drugs, where the primary purpose of targeting suppliers is not to make it impossible to obtain drugs but to increase the cost due to their scarcity. The high cost is expected to deter some, but not all, individuals from obtaining drugs.

[154] See Chapter X for a discussion of pilot costs and Appendix E for more information about how the estimates in this chapter were calculated.

than the current program. Although the cost estimates provide a way of comparing alternative programs, more detailed budget projections will be needed if discussion of alternative programs proceeds.

- Budget projections are for ongoing operating expenses only, on the assumption that, over time, they will far outweigh start-up costs.

- The evaluation team estimated financial costs for employers, employees, and the Federal Government under the assumption that the current division of expenses will continue. This report does not examine how program costs could be shifted among employees, employers, and the Federal Government. For example, the Federal Government could decide to charge employers a fee for using the Basic Pilot system. Similarly, employers could be required to pay employees for any time spent visiting SSA or INS to resolve problems. Although such options may be desirable to some constituencies, they can be considered only after a decision is made about the future of electronic verification programs.

Exhibit XII-2: Summary of Estimated Annual Operating Costs for the Current Basic Pilot Program and Selected Alternative Expanded Programs

Program	No. of Establishments (in thousands)	Federal Cost (in millions)	Employer Cost (in millions)	Employee Cost (in millions)	Total Cost (in millions)
Current Basic Pilot program	0.7	$2.3	$1.3	$2.7	$6.3
Mandatory national, for all employers	6,228.3	$158.9	$11,211.0	$354.6	$11,724.5
Mandatory national, for large employers					
10+ employees	2,533.1	$75.3	$4,559.6	$314.5	$4,949.4
50+ employees	1,425.0	$47.3	$2,564.9	$251.0	$2,863.2
1,000+ employees	812.2	$28.6	$1,462.0	$155.8	$1,646.4
Voluntary national, for all employers	1.4	$2.5	$2.6	$5.5	$10.5
Voluntary enhanced, in selected States	1.4	$2.3	$2.6	$5.5	$10.4

NOTE: The cost differences between the current pilot program and the mandatory national program for all employers are much greater for employer costs than for Federal costs. This is because many of the Federal costs are fixed costs (i.e., they are not affected by the size of the program), while most of the total employer costs are assumed to increase proportionately with an increase in the number of employers enrolled.

1. FEDERAL COSTS

The Federal Government's cost for operating a mandatory nationwide employment verification program comparable to the current Basic Pilot program is estimated to be $159 million a year.[155] In addition, there would be a cost for initial start-up activities

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[155] Chapter X and Appendix E provide details on how these costs were estimated.

such as public awareness efforts to inform employers about their new responsibilities.[156] Federal costs for the programs restricted to large employers would be substantially lower and would depend on the cut-off used in defining large employers. The evaluation team estimates that the Federal operating costs would be $29 million for a program restricted to employers with more than 1,000 employees and approximately $75 million for one restricted to employers with 10 or more employees. If the Basic Pilot program was made voluntary, essentially as is, the Federal cost would be an estimated $2.5 million. If the program was enhanced to make it more attractive to employers and more efficient operationally from a Federal perspective, the Federal cost would be slightly less ($2.3 million).

2. EMPLOYER COSTS

As noted in Chapter X, the mean operating cost for pilot employers was $1,800. Since employer costs do not appear to be a function of employer size, estimated employer costs per employee are smaller for large employers than for small ones. The annual operating cost of a mandatory national program for all employers is estimated to be $11.2 billion. In addition, employers estimated that they spend slightly under $800 each for start-up costs. Extrapolating that amount to a national program would result in an additional cost of $4.8 billion at the beginning of the program.

If the expanded Basic Pilot program were restricted to firms with 10 or more employees, a mandatory national program similar to the Basic Pilot program would result in estimated employer operating costs of $4.6 billion annually and start-up costs of $2 billion. If minimum firm size for a mandatory program was 50, the annual operating expenses would total $2.6 billion and start-up costs would be $1.1 billion. If the program was mandatory only for firms with 1,000 or more employees, the estimated employer cost would be $1.5 billion annually and $0.6 billion for start-up costs.

Employers' operating costs for a Web-based pilot program would be lower than those for the current Basic Pilot Integrated system. For example, computer maintenance costs and telephone costs would be lower. As a rough estimate, a marginal cost of $1,000 per establishment is assumed. This provides an estimated employer cost of $2.6 million for the enhanced pilot program.

Employer start-up costs should also be lower than for the Basic Pilot program because fewer employers would need to buy special hardware or install dedicated telephone lines. Twenty percent of employers claimed they spent money for hardware, and 25 percent said they had costs for telephone hook-up.

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[156] Also not included are any changes in costs that may be engendered by INS enforcement officials responsible for monitoring employer compliance.

3. EMPLOYEE COSTS

As noted in Chapter X, the average employee reported incurring slightly more than $3 in expenses because of the Basic Pilot program. Extrapolating the amount to a mandatory national program would result in a total employee cost of $354.6 million.[157] However, INS policy currently dictates that pilot employees who go to INS offices should be given special treatment, so pilot employees generally have shorter waits for assistance than other employees. This preferential treatment might not exist if automated verification were mandatory for all employers. Therefore, the average cost for an employee whose case goes to the third stage of confirmation may be higher in a mandatory national program than in the Basic Pilot. Also, the estimates do not include costs for employees who are wrongfully denied jobs because the employer has used the pilot system to screen job applicants or taken adverse actions against employees.

If a national program were limited to firms with 10 or more employees, employee costs would be approximately $315 million. If such a program applied to firms with 50 or more employees, the cost would decrease to $251 million. If the program were limited to firms with 1,000 or more employees, the employee cost would be $156 million. Employee costs for a voluntary national program are estimated to total $5.5 million.

The estimates for employee costs assume that the average employee cost would be the same for the enhanced program as for the current program. To reduce the per-employee cost of the system, delays in processing work-authorization documents and updating the INS database would have to be reduced.[158]

4. TOTAL FINANCIAL COSTS

Combining the earlier cost estimates for the Federal Government, employers, and employees provides a total estimate of $11.7 billion to operate a mandatory national program comparable to the pilot program. A mandatory program for employers with 10 or more employees has a total estimated cost of $4.9 billion. If the cut-off was increased to 50 or more employees, a mandatory program would cost slightly more than half the amount for a more comprehensive program ($2.9 billion). A mandatory program restricted to employers with 1,000 or more employees would cost approximately 10 percent of the cost of a comprehensive program ($1.6 billion). The other options would cost substantially less than a mandatory program for all employers, primarily because of the large number of small employers that would not be exempted from the program under a mandatory program. Assuming that approximately twice the number of employers would enroll in either of the voluntary programs, the estimated total cost for these

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[157] In Chapter X, the evaluation team noted several reasons why employee-reported costs may be inaccurate.

[158] INS reports that data entry time lags have decreased since the field period for this evaluation; however, further improvements are necessary.

programs is approximately $10.5 million annually. The estimated total cost to operate an enhanced version of the current Basic Pilot program is $10.4 million annually.

D. OTHER COSTS AND BENEFITS OF THE PROPOSED PROGRAMS

1. FEASIBILITY OF THE FEDERAL GOVERNMENT'S IMPLEMENTING A LARGE-SCALE AUTOMATED VERIFICATION SYSTEM

INS officials have told the evaluation team that INS is unprepared to implement expeditiously a large-scale automated employment verification program and is unlikely to be able to do so in the near future, even if funds were made available for this purpose. Thus, the implementation of any large-scale automated verification program would have to be phased in.

2. ENFORCEMENT ISSUES

As discussed in Chapter VII, many employers enrolled in the existing Basic Pilot program have not always followed Basic Pilot procedures closely. A similar level of compliance would be likely with either a nationwide voluntary program or a Web-based voluntary program. Compliance problems would likely be even more significant if mandatory automated employment verification were introduced, since employers using an automated system involuntarily would presumably be less motivated than volunteers to follow the procedures correctly.

3. STAKEHOLDER REACTIONS

Any mandatory program is likely to meet resistance from employers and groups opposed to excess Federal regulation of business, as well as employee-rights groups concerned that the program may infringe on the rights of immigrants and minorities. This resistance is of concern to the Federal Government, which shares the same concerns about infringement of immigrant and minority rights. A voluntary program is likely to meet with less resistance from employers than a mandatory program; however, objections from immigrant rights groups would probably continue.

4. OTHER POSSIBLE ECONOMIC EFFECTS

If employment verification were restricted to large employers, small employers, who typically pay less than large employers, could become a refuge for unauthorized workers, and the pay differential might drive down compensation levels across the board. This situation might lead to the exploitation of undocumented workers, who would have fewer options for employment. Discrimination might increase if small employers decided that their verification system was inadequate to determine the work-authorization status of their workers.

Another possible negative outcome of a large-scale employment verification system is growth in the underground economy, which could lead to worker exploitation and related problems. The effectiveness of the system would also depend on the authenticity of the required documents and the ability of the system to detect fraud.

5. POSSIBILITY FOR FURTHER LEARNING

Establishing the Web-based program as a new pilot program (or as an extension and modification of the existing Basic Pilot program) would provide an opportunity for learning more about the likely effects of a large-scale employment verification program. This opportunity would be especially great if the evaluation was initiated before program implementation, so that pilot employers and employees could be interviewed both before and after the establishment of the system. Such an approach is especially important for ensuring the availability of good measures of the program's effect on discrimination. This approach would also provide an opportunity to correct some of the data limitations encountered by the current evaluation team.[159]

E. SUMMARY AND CONCLUSIONS

Exhibit XII-3 summarizes and compares the four alternative employment verification programs, which closely resemble the current Basic Pilot Integrated system in most respects.[160]

Recommendations for changes to the Basic Pilot program have been presented throughout this report. If implemented, these changes are likely to affect the costs and benefits of any future program. However, the impacts of these recommendations may not be the same for all of the alternatives considered. For example, the report recommends that INS reduce the time it takes to update information in the Computer-Linked Application Information Management System (CLAIMS) and the Central Index System. Implementation of this recommendation could cut employee costs substantially (since fewer individuals would need to resolve problems with INS) and would also slightly decrease the average Federal and employer costs per case. Since employee costs account for between 2 percent and 43 percent of total costs in the alternatives examined, this recommendation would have quite different impacts on the total costs for each alternative.

This chapter has discussed the costs and benefits of possible automated employment authorization programs based on lessons derived from the Basic Pilot Integrated system. The alternative most likely to reduce the employment of non-work-authorized individuals is a mandatory national system. However, this alternative is also the most expensive considered. Substantial cost savings could be achieved by restricting the mandatory program to large employers, although this approach would likely limit the program's ability to meet its goals. Implementation of a voluntary national program or an enhanced version of the current Basic Pilot Integrated system would be less costly but would have little impact on undocumented immigration and the employment of unauthorized workers

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[159] For example, the transaction database could be redesigned to capture more of the information that is useful for evaluation purposes, and INS and SSA officials could be encouraged to keep more detailed information related to pilot costs.

[160] See Chapter XIII for a summary of the recommendations.

on a national basis. Testing an enhanced version of the Web-based Basic Pilot Integrated system, and implementing other recommended changes, could provide better information to guide the implementation of a cost-effective program.

Exhibit XII-3: Comparison of Alternative Expanded Basic Pilot Programs

	Mandatory National, for All Employers	Mandatory National, for Large Employers	Voluntary National, for All Employers	Voluntary Enhanced (Web-Based)
Effects on employment of non-work-authorized individuals	Should reduce number of undocumented workers	Should somewhat reduce number of undocumented workers. More undocumented workers will go to smaller firms	Little or no impact on number of undocumented workers	Little or no impact on number of undocumented workers
Effects on illegal immigration	Should reduce incentive for illegal immigration	Should somewhat reduce incentive for illegal immigration	Should have little short-term effect on illegal immigration, but will have more effect as program grows	Should have little short-term effect on illegal immigration, but will have more effect as program grows
Annual costs (in millions)	$11,800	$4,900	$10.5	$10.4
System capabilities	System currently incapable of training and supporting employers or handling large volume of verification requests	System currently incapable of training and supporting employers or handling large volume of verification requests	System currently capable of training and supporting *willing* employers and handling volume of verification requests. System can grow with program	System currently capable of training and supporting *willing* employers and handling volume of verification requests. System can grow with program
Employer compliance	Expected to be very poor	Expected to be poor	Expected to be moderate	Expected to be moderate
Stakeholder reactions	High resistance from all businesses and employees	High resistance from large businesses and employees	Moderate resistance from businesses and employees	Moderate resistance from businesses and employees